



Our Reference: CNI-100-C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Locke et al.

Serial Number: 09/915,727

Filing Date: July 26, 2001

Examiner/Art Unit: E. Fuller/1762

Title: METHOD FOR DAMPING NOISE, VIBRATION AND HARSHNESS OF A  
SUBSTRATE

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DECLARATION OF DUDLEY J. PRIMEUAX, II

I, Dudley J. Primeaux, II, declare as follows:

1. I am a named inventor in United States Patent No. 5,962,618 (hereafter "the '618 patent"), entitled "Polyurea Spray Railcar Lining Systems."
2. The '618 patent teaches a polyurea elastomer material which is applied as a lining to the interior of railway hopper cars, the said polyurea elastomer material as disclosed having the beneficial properties of flexibility and elongation, as well as abrasion, impact, and corrosion resistance.
3. At the time of my invention of the polyurea spray elastomer of the '618 patent, there was an acute need for an interior lining for railway hopper cars which would withstand the constant flexing such hopper cars are subjected to during railway movement. Previous to the invention of the '618 patent, conventional coatings

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applied to such railway hopper cars would crack during railway movement, exposing the contents thereof to contaminating rust developed on the hopper car's metal substrate. In response to the foregoing need, the invention of the '618 patent was conceived.

4. The '618 patent nowhere describes or discloses application of the claimed polyurea spray lining to passenger vehicles of any description. Rather, and in keeping with the need prompting the invention thereof, the '618 patent details application of the claimed polyurea spray elastomer to railway hopper cars used in the transportation of such materials as polystyrene beads and crystalline polystyrene in evidence of the efficacy of that invention for its disclosed application. In particular, the '618 patent describes the following applications and tests of the spray lining system, all of which are expressly limited in nature to railway hopper cars:

"This elastomer spray system was spray applied in a test to the inside of the B compartment of Huntsman Chemical Corporation's JHPX 5246 railcar, used for the transportation of polystyrene beads." Col. 9, line 65 - col. 10, line 1.

"This elastomer system was spray applied in a test to the inside of all four compartments of Huntsman Chemical Corporation's JHPX 5245 railcar, used for transportation of polystyrene beads." Col. 10, lines 30-34.

"Formulation Example III was used to coat the inside of a three-compartment practice car JHPX 3508 as well as the original four-compartment car JHPX 5246 by Specialty Lining." Col. 10, lines 57-60.

"Polyurea spray elastomer lined railcar JHPX 5246 was next subjected to a series of loading and unloading of polystyrene beads as well as crystalline polystyrene at the Huntsman Chemical Corporation's Belpre, Ohio facility." Col. 11, lines 64-67.

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"Polyurea lined railcar JHPX 5246 was subjected to normal loading and unloading of off-specification polystyrene for three cycles." Col. 12, lines 5-7.


5. In light of the foregoing, I conclude that the disclosure of the '618 patent does not teach, and would not have been construed by one of ordinary skill in the art to teach, the application of the polyurea spray lining thereof to a body component of a passenger vehicle in order to attenuate vibration transmitted to the interior of the passenger vehicle.
6. I am familiar with the disclosure of the above-captioned application, Serial Number 09/915,727.
7. Prior to my knowledge of the invention disclosed in the '727 application, it was unknown to me that a polyurea compound, including such as disclosed in the '618 patent, could be used to attenuate or dampen vibration of a substrate, including vibrations through a passenger vehicle to the interior passenger cabin thereof.
8. While the statement's made herein are made by me objectively and without bias, I disclose, in an abundance of caution, that I personally know the named inventors of the '727 application, and that I have, over the course of the past two years, been occasionally retained by The Mackinac Group, Inc., prior owner by assignment of the above-captioned application, as an independent consultant thereto. I am not a member of The Mackinac Group, Inc., and my future

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employment by The Mackinac Group, Inc. as an independent consultant has not been conditioned on my making this declaration.

9. The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of this application or any resulting registration, declares that all statements made of his knowledge are true, and that all statements made upon information and belief are believed to be true.

Signed:

  
Dudley J. Primeaux, II

Dated: 25 SEPTEMBER 2003